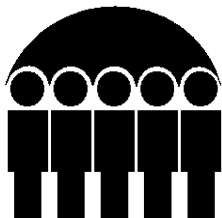


October 15, 2002

Employees' Manual  
Title 1  
Chapter D

# **NONDISCRIMINATION**



Iowa  
Department  
of  
Human Services

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	<u>Page</u>
OVERVIEW .....	1
Legal Basis.....	1
POLICY ON NONDISCRIMINATION .....	2
POLICY ON LIMITED ENGLISH PROFICIENCY.....	2
Responsibilities of the Department.....	3
Interpretation.....	4
Translation of Written Materials.....	5
Notice of Available Services .....	5
Training Requirements .....	5
Requirements for Contractors .....	6
Monitoring .....	6
DISCRIMINATION COMPLAINTS.....	7
Complaints Filed With Other Agencies.....	8
Nonretaliation .....	9
Investigations .....	9

## **OVERVIEW**

This chapter details the policy of the Iowa Department of Human Services (the Department) regarding nondiscrimination and the procedures for making a complaint.

### **Legal Basis**

The U.S. Civil Rights Act of 1964, as amended, prohibits discrimination as follows:

- ◆ Title VI prohibits discrimination based upon race, color, or national origin in the provision of services to the Department's clients or residents.
- ◆ Title VII prohibits race, color, national origin, religion, or sex (including sexual harassment) discrimination in hiring, promotion, discharge, pay, fringe benefits, and other aspects of employment.

The Civil Rights Restoration Act of 1987 prohibits sex discrimination under any educational program or activity receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination against persons with mental or physical disability in employment and in the provision of services to clients or residents of the Department.

The Age Discrimination Act of 1975, as amended, prohibits age discrimination in the provision of services to clients or residents of the Department.

The Americans With Disabilities Act (ADA) of 1990, as amended, prohibits discrimination against individuals in employment or service on the basis of a physical or mental medical impairment which substantially limits one or more major life activities.

The Iowa Civil Rights Act of 1965, as amended, prohibits discrimination against any person because of race, color, national origin, creed, sex, religion, or disability in the furnishing of services to the public.

## OVERVIEW

### Legal Basis

Revised October 15, 2002

Iowa Department of Human Services

**Title 1** General Departmental Procedures

**Chapter D** Nondiscrimination

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## **POLICY ON NONDISCRIMINATION**

The Iowa Department of Human Services provides services on a non-discriminatory basis. Differences in treatment in provision of services or employment are prohibited by law. Federal and state civil rights laws provide protection to people who feel they have been:

- ◆ Discriminated against because of their:
  - Age
  - Color
  - Creed
  - Gender
  - Marital status
  - Mental disability
  - National origin
  - Physical disability
  - Political belief
  - Pregnancy
  - Race
  - Religion
  - Sex
- ◆ Retaliated against because of filing a discrimination complaint or opposing a discriminatory practice

State and federal legislation and executive orders mandate that the Department conduct its provision of services and purchase of services in a nondiscriminatory manner. Age is included within the Civil Rights Act of 1965 regarding the area of employment. However, age is not a covered basis in the area of public accommodations (service).

## **POLICY ON LIMITED ENGLISH PROFICIENCY**

**Legal reference:** Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1); Federal Register, August 30, 2000, Volume 65, Number 169, pages 52762-52774

A person with “limited English proficiency” is one who is unable to speak, read, write, or understand the English language at a level that permits the person to interact effectively with health and social services agencies and providers.

The Department adopts the policy as set forth in Title VI of the Civil Right Act prohibiting national origin discrimination as it affects people with limited English proficiency: The Department shall provide for communication with people with limited English proficiency, including current and prospective patients or clients, family members, consumers, etc., to ensure them an equal opportunity to benefit from services.

This policy applies to central and field offices and each DHS facilities receiving federal financial assistance. Department programs and contractors receiving federal financial assistance are bound by the requirements in the Civil Rights Act of 1964 as well.

### **Responsibilities of the Department**

The Department is responsible for:

- ◆ Assessing populations with limited English proficiency to identify:
  - The size of these populations.
  - Their specific language needs in specific service areas that are likely to be accessed.
- ◆ Developing policies and procedures to ensure “meaningful access” for people with limited English proficiency. This includes procedures to:
  - Identify the points of contact where language assistance may be needed.
  - Identify translation and interpretation resources, including their location and their availability.
  - Arrange to have these resources available in a timely manner.
  - Determine the written materials and vital documents to be translated, based on the populations with limited English proficiency, and ensure their transition.
  - Determine effective means for notifying people with limited English proficiency of available translation services available at no cost.
- ◆ Training Department staff on limited English proficiency requirements and ensure their ability to carry them out and

Monitoring the application of these policies on at least an annual basis, to ensure ongoing, meaningful access to service.

The Department is responsible for developing a plan for meeting the needs of people with limited English proficiency, which may include:

- ◆ Hiring bilingual staff for customer contact positions.
- ◆ Hiring staff interpreters who meet standards established by the Department.
- ◆ Contracting for competent interpreter services.
- ◆ Engaging community volunteers.
- ◆ Arranging for a telephone interpreter service.
- ◆ Posting advisory notices that indicate free interpretive services are available.

### **Interpretation**

When possible, the Department will hire bilingual staff to address the language needs of larger populations with limited English proficiency.

Family, friends, or minor children cannot provide language assistance, unless the person with limited English proficiency has already refused the offer of a translator (at no cost) and specifically requests assistance from these people. The refusal of an interpreter must be documented in the client's record.

Clients may not be used as translators for other clients.

When possible, people hired by the Department who are expected to interpret will receive training on:

- ◆ General interpreting skills, including the ethics, confidentiality requirements, and dynamics of interpretation
- ◆ Specific terminology for the settings in which they may be asked to interpret.

Telephone interpretation services shall be used when competent translators (or bilingual staff) are unavailable. Supervisors and staff with the need to know will receive training on how to access and use this phone service.

### **Translation of Written Materials**

The Department will develop and implement a plan to provide written materials in languages other than English, where a significant number or percentage of the population eligible to be serviced (or likely to be directly affected by the program) needs services or information in a language other than English.

The Department will translate documents in keeping with the requirements and threshold levels of Title VI, which may be modified from time to time. Notices are to be translated in the various widely used languages of Department customers, clients, and consumers.

### **Notice of Available Services**

The following methods may be used to notify people with limited English proficiency of available language services and their right to these services free of charge:

- ◆ Language identification cards, also known as “I speak” cards, made available in English and in the languages identified by the population assessment.
- ◆ Posters and signs translated into regularly encountered languages and posted in areas that are considered initial points of entry.
- ◆ Brochures, outreach materials, booklets, recruitment information, and other materials routinely disseminated to the public that include statements about the services available and the right to free language assistance in the appropriate non-English languages.

### **Training Requirements**

The Department is responsible for ensuring that staff, interpreters, and contractors are trained and meet the appropriate requirements.

Department staff will receive training that includes:

- ◆ Federal (Title VI) requirements on limited English proficiency.
- ◆ Department policy and program requirements on limited English proficiency.

Procedures to follow in securing language assistance in a timely manner.

The Department will try to ensure the competency of people who provide interpreter services. Assessment criteria may include:

- ◆ Demonstrated proficiency in both English and the other language.
- ◆ Fundamental knowledge of any specialized terms or concepts, in both languages.
- ◆ Sensitivity to the culture of people with limited English proficiency.
- ◆ Demonstrated ability to convey accurate information in both languages
- ◆ Orientation and training that includes the skills and ethics of interpreting (e.g. confidentiality issues).

### **Requirements for Contractors**

The Department shall ensure that health or social service agencies and providers understand their obligation to provide equal access for people with limited English proficiency as a condition of their contract. The Department shall provide information and training to contractors, to include:

- ◆ Reviewing policy requirements under Title VI.
- ◆ Conveying the significance of completing form 470-2215, *Desk Audit for Civil Rights Contract Compliance*, which affirms the contractor's willingness and ability to meet these federal requirements.
- ◆ Reinforcing the contractor's responsibility to provide interpreters to meet the language needs of customers. The cost of this service can be included as an allowable expense in determining payment rates. Including this cost as part of the rate factors it into client costs across the board.
- ◆ Clarifying that refusal to provide interpreter services to people with limited English proficiency, as required under Title VI, is a contract compliance issue. A contract can be terminated for failure to abide by the provisions of the contract.

### **Monitoring**

On at least an annual basis, the Department will review the limited English proficiency policies and accompanying requirements, including but not limited to:

- ◆ Current demographics of clientele with limited English proficiency
- ◆ Current language communication needs
- ◆ Whether existing procedures effectively meet the needs of consumers
- ◆ Staff awareness of policies as established by the Department



## **DISCRIMINATION COMPLAINTS**

**Legal reference:** Civil Rights Act of 1964 (42 U.S.C. 2000d), as amended, Title VI, Section 601, and Title VII, Section 701 to 715; Civil Rights Restoration Act of 1987; Section 504 of the Rehabilitation Act of 1973, as amended; Americans With Disabilities Act of 1990, as amended; Age Discrimination Act of 1975, as amended; 45 CFR 80.1

**A discrimination complaint** is defined as a person's complaint about the conduct, behavior or adverse actions of another person when the complainant believes the behavior was related to the complainant's age, race, skin color, creed, national origin, religion, sex or gender, sexual orientation, physical or mental disability, political beliefs, or marital status.

Applicants, recipients, or residents of Department institutions who believe that they have been discriminated against by the Department or by its purchase-of-service providers, vendors, or contractors may:

- ◆ File a complaint with the Department using form 470-0118, *Discrimination Complaint*. This form is available from any Department office or from the Department's diversity program manager.
- ◆ File a formal written complaint with the Department in another form.

If a complainant makes an allegation in person or through a telephone conversation and is unable to put the allegation in writing, the person to whom the allegation is made must put the elements of the complaint in writing.

Forward all complaints to:

DHS Diversity Program Unit  
1305 E. Walnut St.  
Des Moines, Iowa 50319-0114

Share complaint information only with those who need to know. Adhere to all confidentiality standards.

Formal complaints may also be filed with local human rights agencies; the Iowa Civil Rights Commission; the Equal Employment Opportunity Commission; the U.S. Department of Health and Human Services, Office for Civil Rights; or the U.S. Department of Agriculture. See **Complaints Filed with Other Agencies**.

Although there is no time limit for filing complaints with the Department, other agencies do have timeliness standards. Failure to file complaints with the Department within those time limits may affect the recommendation and outcomes, based on lack of timeliness.

- ◆ Complaints that are not filed within 180 days of incident are not timely for consideration by the Iowa Civil Rights Commission, the Office for Civil Rights, or the Department of Agriculture.
- ◆ Complaints not filed within 300 days of the incident are not timely for consideration of the Equal Employment Opportunity Commission.

Employees of the Department who have reason to believe that they have been discriminated against may:

- ◆ File a grievance through the collective bargaining agreement procedure,
- ◆ File a grievance through the grievance procedure of the Iowa Department of Personnel, or
- ◆ File an informal complaint with the Diversity Program Unit.

### **Complaints Filed With Other Agencies**

People who believe that they have been discriminated against by the Department or by its purchase-of-service providers, vendors, or contractors may also filing a complaint of discrimination with other agencies, such as:

- ◆ The Iowa Civil Rights Commission. Complaints must be filed within 180 days of the incident.
- ◆ The United States Department of Health and Human Services, Office for Civil Rights. This includes complaints regarding age discrimination under the Age Discrimination Act of 1975. Complaints must be filed within 180 days of the incident. There is no age limit for filing.
- ◆ The United States Equal Employment Opportunity Commission. Complaints must be filed within 300 days of the incident.
- ◆ The United States Department of Agriculture, Director Office for Civil Rights, for complaints regarding food stamps or commodities. Complaints must be filed within 180 days of the incident. See also 7-A, **Nondiscrimination Compliance**.

If a complaint is filed both with one of these agencies or any other antidiscriminatory agency AND with the Department's Diversity Program Unit, the Department will cease its direct involvement with the complaint process in order to eliminate duplication of effort. However, the Department may still provide technical assistance to complaints and respond to outside agency requests.

### **Nonretaliation**

**Legal reference:** Civil Rights Act of 1964 (42 U.S.C. 2000d), as amended, Title VI, Section 601, and Title VII, Section 701 to 715; Civil Rights Restoration Act of 1987; Section 504 of the Rehabilitation Act of 1973, as amended; Americans With Disabilities Act, as amended; Age Discrimination Act of 1975, as amended; 45 CFR 80.1; Chapter 216 of Iowa Civil Rights Act of 1965, as amended.

"Retaliation" occurs when the fact that a person made a complaint or opposed a discriminatory practice results in some form of adverse action against that person.

No applicant, client, or resident shall be intimidated, coerced, harassed, or subjected to any form of adverse action because of:

- ◆ The filing of a discrimination complaint, or
- ◆ Giving testimony or assistance, or participating in any manner in any investigation under the Department's discrimination complaint procedure.

### **Investigations**

With the exception of complaints filed with antidiscriminatory agencies, the Department has the responsibility of investigating or mediating any discrimination complaints involving the Department.

The Department's diversity program manager is responsible for ensuring that compliance is met. The diversity program manager may investigate or mediate discrimination complaints initiated by applicants, clients, participants, or employees of the Department's purchase-of-service providers, vendors, or contractors.

The Diversity Program Unit will make every effort to resolve informal complaints within 30 days of complaint filing. If the complainant is dissatisfied with the disposition made by the Department, the complainant may pursue the complaint with other antidiscriminatory agencies.

**DISCRIMINATION COMPLAINTS****Investigations**

October 15, 2002

Iowa Department of Human Services

**Title 1** General Departmental Procedures**Chapter D** Nondiscrimination

Investigative procedures differ, based on where the complaint is filed, as explained in the following chart.

Remember to share complaint information only with those who need to know. It is important to adhere to all confidentiality standards.

	<b>Complaint Filed <u>Inside</u> DHS</b>	<b>Complaint Filed <u>Outside</u> DHS</b>
Agencies Involved	No involvement with: <ul style="list-style-type: none"><li>• Federal Civil Rights Commission</li><li>• Iowa Civil Rights Commission</li><li>• Equal Employment Opportunity Commission</li><li>• Other federal or state agency</li></ul>	Complainant has contacted: <ul style="list-style-type: none"><li>• Federal Civil Rights Commission</li><li>• Iowa Civil Rights Commission</li><li>• Equal Employment Opportunity Commission</li><li>• Other federal or state agency</li></ul>
Role of DHS administrator, manager, or supervisor	<ol style="list-style-type: none"><li>1. Documents the details of the incidents</li><li>2. Dates and signs the document</li><li>3. Copies the complaint and forwards within five days to:<ul style="list-style-type: none"><li>• The DHS diversity manager</li><li>• The complainant's immediate supervisor, if complainant is an employee</li><li>• The supervisor's immediate superior, if an employee is alleging harassing or hostile conduct on the part of the supervisor</li></ul></li></ol>	<ol style="list-style-type: none"><li>1. Documents the details of the incidents</li><li>2. Dates and signs the document</li><li>3. Copies the complaint and forwards within five days to:<ul style="list-style-type: none"><li>• The DHS diversity manager</li><li>• State Attorney General's Office</li><li>• The supervisor's immediate superior, if an employee is alleging harassing or hostile conduct on the part of the supervisor</li></ul></li></ol>

	<b>Complaint Filed <u>Inside</u> DHS</b>	<b>Complaint Filed <u>Outside</u> DHS</b>
Role of DHS diversity program manager	<ol style="list-style-type: none"> <li>Makes copies of the complaint available to: <ul style="list-style-type: none"> <li>Results-Based Accountability Division administrator</li> <li>Deputy director in the complainant's area</li> <li>Division administrator, area manager, or superintendent</li> <li>Other relevant parties as needed</li> </ul> </li> <li>Evaluates the complaint and reviews options: <ul style="list-style-type: none"> <li>Consults with others as needed</li> <li>May conduct an investigation or assign others to complete an internal investigation</li> <li>Documents findings</li> </ul> </li> <li>Distributes findings or retains copies to be made available to: <ul style="list-style-type: none"> <li>Results-Based Accountability Division administrator</li> <li>Division administrator, superintendent, or manager in the complainant's area</li> <li>Deputy director in the complainant's area</li> <li>Director's office</li> </ul> </li> <li>Provides additional follow-up as needed.</li> </ol>	<ol style="list-style-type: none"> <li>Consults with the Attorney General's office.</li> <li>Makes copies of the complaint available to: <ul style="list-style-type: none"> <li>Results-Based Accountability Division administrator</li> <li>Deputy director in the complainant's area</li> <li>Division administrator, area manager, or superintendent</li> <li>Other relevant parties as needed</li> </ul> </li> <li>Evaluates the complaint In consultation with Attorney General's office and documents findings</li> <li>Distributes or retains copies of the findings to be made available to: <ul style="list-style-type: none"> <li>Results-Based Accountability Division administrator</li> <li>Division administrator, superintendent, or manager in the complainant's area</li> <li>Deputy director in the complainant's area</li> <li>Director's office</li> </ul> </li> <li>5 Provides additional follow-up as needed.</li> </ol>



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

October 15, 2002

## GENERAL LETTER NO. 1-D-3

ISSUED BY: Bureau of Employee Services, Division of Results Based Accountability

SUBJECT: Employees' Manual, Title 1, Chapter D, ***NONDISCRIMINATION***, Title page, revised; Contents (page 1), revised; pages 1 through 4, revised; and pages 5 through 11, new.

### Summary

This chapter is revised to:

- ◆ Update current policies and practices and arrange in the current manual format.
- ◆ Add a section that addresses the Department's responsibility for:
  - Developing and implementing a plan to provide written materials in languages other than English to persons with limited English proficiency, where it is deemed appropriate.
  - Ensuring that staff, interpreters, and contractors meet the applicable training requirements.
- ◆ Include a table that details how department administrators, managers, and supervisors are to handle a discrimination complaint.
- ◆ Update legal references.

### Effective Date

Upon receipt.

### Material Superseded

Remove the entire Chapter D from Title 1 of the Employees' Manual, and destroy it. This includes the following pages:

<u>Page</u>	<u>Date</u>
Title page	December 28, 1976
Contents (page 1)	December 11, 1990
1-4	December 11, 1990

### Additional Information

Refer questions about this general letter to your service area manager or superintendent.